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In re Application of
Herpel et al.
Application No. 10/578,996
PCT No.: PCT/EP2004/010234
Int. Filing Date: 13 September 2004
Priority Date: 12 November 2003
Atty. Docket No.: PD030116
For: Method And Device For Composing A Menu :

DECISION

This is in response to applicants' correspondence filed on 06 August 2008.

BACKGROUND

This international application was filed on 13 September 2004, claimed an earliest priority date of 12 November 2003, and designated the U.S. The International Bureau transmitted a copy of the published international application to the USPTO on 02 June 2005. The 30 month time period for paying the basic national fee in the United States expired at midnight on 12 May 2006. Applicants filed, *inter alia*, the basic national fee on 11 May 2006.

On 24 June 2008, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring an oath or declaration compliant with 37 CFR 1.497(a) and (b) and the surcharge under 37 CFR 1.492(h).

DISCUSSION

Inspection of the declaration filed on 11 May 2006 reveals that it nominates "Dirk Gandolph" in place of "ADOLPH, Dirk" named in the published international application. MPEP 605.04(b) states in part that

Except for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee.

Applicants have provided a "Declaration of Dirk Gandolph..." attesting to his name change. However, since the change described above represents more than a mere typographic error or phonetic misspelling of applicant's name, a petition (and fee) under 37 CFR 1.182 is required. In the absence of a formal petition under 37 CFR 1.182, it would not be appropriate to accept the declaration at this time.

DECISION

The declaration is **NOT ACCEPTED**, without prejudice.

A proper response must be filed within either the remaining period for response to the Notification of Missing Requirements mailed on 24 June 2008 (as extended under 37 CFR 1.136(a)) or **ONE (1) MONTH** from the mail date of this decision (**NOT** extendable under 37 CFR 1.136(a)), whichever expires later. This period for response is analogous to that which would be set in a Notification of Defective Response (Form PCT/DO/EO/916). Failure to timely file a proper response will result in **ABANDONMENT**.

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the contents of the letter to the attention of the Office of PCT Legal Administration.

/George Dombroske/
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